

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN**

IN RE:

Ceria Bellinger

Case No.: 20-20863-KMP

Chapter 13 Case

Debtor(s)

MOTION TO LIFT THE AUTOMATIC STAY

21st Mortgage moves the Court, pursuant to Section 362(d) of the Bankruptcy Code, for an Order lifting the automatic stay imposed by Section 362(a) of the Bankruptcy Code and alleges as follows:

1. Ceria Bellinger filed a petition under Chapter 13 of the Bankruptcy Code on February 4, 2020.

2. 21st Mortgage holds a secured claim against the Debtor and has a valid mortgage in real property legally described as Lot Nine (9) in Block Six (6) in Prospect Heights, a Subdivision of A Part of the Southeast One-Quarter (1/4) of Section Twenty-Nine (29), in Township Eight (8) North, Range Twenty-One (21) East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin, and commonly known as 5730 North 96th Street, Milwaukee, WI. A copy of the Adjustable Rate Note, Home Affordable Modification Agreement, Assignment(s) of Mortgage and evidence of a Mortgage are attached to the Affidavit.

3. 21st Mortgage requests relief from automatic stay in this case for the following reasons:

a) Debtor is currently delinquent to the Movant One Thousand Seven Hundred Twelve and 47/100 Dollars (\$1,712.47), for the monthly post-petition installments due on October 1, 2020, and November 1, 2020.

b) Debtor has not offered adequate protection to 21st Mortgage.

4. If 21st Mortgage is not permitted to obtain possession and sell the property, it will suffer irreparable injury, loss, and damage.

Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), 21st Mortgage requests that this Order shall be effective immediately.

Dated: November 23, 2020

MESSERLI & KRAMER PA

/s/ William C. Hicks

William C. Hicks, #1012362

Brian A. Chou, #1045459

James E. Kachelski#1021194

3033 Campus Drive, Ste. 250

Plymouth, MN 55441

Ph#: (763) 548-7900

Fax#: (763) 548-7922

IMPORTANT NOTICE

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN**

IN RE:

Ceria Bellinger

Case No. 20-20863-KMP
Chapter 13 Case

Debtor(s)

21st Mortgage

vs

Ceria Bellinger

NOTICE OF MOTION TO LIFT AUTOMATIC STAY

21st Mortgage has filed papers with the court through its attorney, William C. Hicks, to lift the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to lift automatic stay, or if you want the court to consider your views on the Motion to Lift Automatic Stay, then on or before December 10, 2020, you or your attorney must:

File with the court a written response explaining your position and request a hearing on the Motion at:

Clerk of Bankruptcy Court
U.S. Bankruptcy Court
Bankruptcy Clerk's Office
517 East Wisconsin Ave #126
Milwaukee WI 53202

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Messerli & Kramer PA
3033 Campus Drive, Ste. 250
Plymouth MN 55441

Arnold F. Lueders, III
626 E Wisconsin Ave., #1000
Milwaukee, WI 53202

Rebecca Garcia, Trustee
PO Box 3170
Oshkosh WI 54903

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), 21st Mortgage requests that this Order shall be effective immediately.

Dated: November 23, 2020

MESSERLI & KRAMER PA

/s/ William C. Hicks

William C. Hicks, #1012362
 Brian A. Chou, #1045459
 James E. Kachelski#1021194
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN

IN RE:
Ceria Bellinger

Case No. 20-20863-KMP
Chapter 13 Case

Debtor(s)

AFFIDAVIT OF JACK MONTJOY

STATE OF TENNESSEE)
)ss.
COUNTY OF KNOX)

Jack Montjoy, being first duly sworn upon oath, deposes and states:

1. That she is the Representative of 21st Mortgage Moving party herein, and that he makes this Affidavit in support of 21st Mortgage's Motion for Relief from Stay.
2. That at the time the Petition commencing this Chapter 13 case was filed on February 4, 2020, 21st Mortgage had a claim against Debtor secured by real property legally described as Lot Nine (9) in Block Six (6) in Prospect Heights, a Subdivision of a Part of the Southeast One-Quarter (1/4) of Section Twenty-Nine (29), in Township Eight (8) North, Range Twenty-One (21) East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin, and commonly known as 5730 North 96th Street, Milwaukee, WI.
3. That the estimated market value of the property at the time of the filing of the Petition, as stated in Schedule A/B filed in the Debtor's bankruptcy schedules was \$86,000.00.
4. That the amount of Movant's claim at the time of the filing of the Petition was \$130,454.80. The present amount of Movant's claim is \$127,259.50, which includes a tag loan in the amount of \$24,456.74, an unpaid principal balance of \$92,240.55, plus accrued interest, escrow balance and fees and charges through November 18, 2020, in the amount of \$10,562.21.
5. The Debtor is delinquent One Thousand Seven Hundred Twelve and 47/100 Dollars (\$1,712.47) to the Movant for the monthly post-petition installment(s) due on October 1, 2020, and November 1, 2020.

6. Copies of Adjustable Rate Note, Home Affordable Modification Agreement, Assignment(s) of Mortgage and Mortgage evidencing 21st Mortgage's interest in the property are attached hereto as Exhibits A and B.

FURTHER YOUR AFFIANT SAITH NOT.

Dated: 11/18/2020

Jack Montjoy
Jack Montjoy

This instrument was affirmed by
affiant in my presence on

18 day of November, 20 20.

Katlyn McConnell
Notary Public



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vs

Ceria Bellinger

MEMORANDUM IN SUPPORT OF MOTION TO LIFT THE AUTOMATIC STAY

21st Mortgage moves the Court for an order granting relief from the automatic stay to permit 21st Mortgage to take possession of real property commonly known as 5730 North 96th Street, Milwaukee, WI, presently in Debtor's possession. Movant has a mortgage in the property pursuant to an Adjustable Rate Note and Mortgage dated May 02, 2003, between Debtor and Paragon Home Lending, LLC, whose interest was subsequently assigned to 21st Mortgage. Movant's perfected interest in the property is evidenced on the Mortgage.

At the time of the filing of the bankruptcy petition on February 4, 2020, the estimated market value of the property, as stated in Schedule A/B filed in the Debtor's bankruptcy schedules, was \$86,000.00 and 21st Mortgage's claim secured by the property was \$130,454.80. The debtor is delinquent One Thousand Seven Hundred Twelve and 47/100 Dollars, (\$1,712.47) for the post-petition payments due on October 1, 2020, and November 1, 2020.

Pursuant to 11 U.S.C. §362(d)(1), relief from automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in collateral of such creditor." Debtor has defaulted on payments due under the Adjustable Rate Note. Debtor has failed to provide 21st Mortgage with adequate protection for its interest in the property. This failure constitutes cause within the meaning of 11 U.S.C. § 362(d)(1), entitling 21st Mortgage to relief from the stay.

In addition, pursuant to 11 U.S.C. § 362(d)(2), relief from the automatic stay is also appropriate where debtors have no equity in the property and the property is not necessary for an effective reorganization. In this case, the balance due 21st Mortgage exceeds the estimated value of the property, and therefore, no equity exists in the property. Debtor does not need this Property for an effective reorganization.

In conclusion, 21st Mortgage is entitled to an Order modifying the automatic stay allowing it to pursue its state court remedies for cause, as defined under 11 U.S.C. §362(d), due to the lack of equity in the property and the fact that the property is not necessary for Debtor's effective reorganization. Movant does not have adequate protection for its security interest and none has been offered.

21st Mortgage respectfully requests that the above-named Court modify the automatic stay to allow Movant to pursue its remedies pursuant to state law in regard to this property.

Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), 21st Mortgage requests that this Order shall be effective immediately.

Dated: November 23, 2020

MESSERLI & KRAMER PA

/s/ William C. Hicks

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 Brian A. Chou, #1045459
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